

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20479
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On June 25, 2007, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing income tax, penalty, and interest for the taxable years 2000 through 2005 in the total amount of \$9,311.

On August 24, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information [Redacted] that showed the taxpayer was employed in Idaho during the years 2000 through 2005. The Bureau searched the Tax Commission's records and found that the taxpayer had not filed Idaho individual income tax returns for any of those years. The Bureau sent the taxpayer a letter asking about her requirement to file Idaho income tax returns. The taxpayer acknowledged her requirement to file Idaho income tax returns, yet she failed to provide any.

[Redacted]. The Bureau sent the taxpayer a Notice of Deficiency Determination, which the taxpayer protested. The taxpayer stated the amounts the Bureau used were incorrect. She stated she files jointly with her husband and that her pre-paid taxes and deductions were not included in the Bureau's determination.

The taxpayer asked what she needed to provide to correct the Bureau's determination. The Bureau responded that she could prepare the returns herself and gave her the necessary information to obtain the forms and instructions. The Bureau allowed the taxpayer time to prepare and submit her returns; however, no returns were received. Consequently, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer failed to respond. The Tax Commission sent a follow-up letter to the taxpayer but still received no response. Therefore, the Tax Commission decided the matter based upon the information available.

The Bureau received information [Redacted] that showed the taxpayer worked for an Idaho employer. [Redacted]. The Bureau used this information to prepare Idaho individual income tax returns for the taxpayer. The returns the Bureau prepared gave the taxpayer a filing status of married filing separate with one personal exemption.

In the taxpayer's protest, the taxpayer stated the income amounts the Bureau used were incorrect. She also stated that when she files her returns she files as married filing joint. The taxpayer stated further that the Bureau did not include all her deductions or include any pre-paid taxes.

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). Whether and to what extent deductions shall be allowed depends upon legislative grace, and only as there is clear provision therefor can any particular deduction be allowed. A taxpayer

seeking a deduction must be able to point to an applicable statute and show that he comes within its terms. New Colonial Ice Co., Inc. v. Helvering, 292 U.S. 435, 54 S.Ct. 788 (1934). The burden rests upon the taxpayer to disclose his receipts and claim his proper deductions. United States v. Ballard, 535 F.2d 400 (1976). If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and that taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931).

The taxpayer has failed to provide anything to show the Bureau's determination is incorrect. She stated that her filing status should be married filing joint. This is an option that is available to married individuals; however, it is an election that the taxpayer must make when she files her income tax return. It is not an election the Bureau or the Tax Commission can make for the taxpayer and her spouse.

Idaho is a community property state. As such, married taxpayers are required to report the total income of the community. When married taxpayers file their income tax returns as married filing separate, they are required to split the community income equally and report it on their separate returns. Deductions, exemptions, and withholdings are also generally divided equally between the married taxpayers. This is the method the Bureau used in determining the taxpayer's Idaho taxable income.

Since the taxpayer has not shown that the Bureau's computations are in error, the Tax Commission finds the returns prepared by the Bureau are a reasonably accurate representation of the taxpayer's Idaho taxable income. Therefore, the Tax Commission upholds the Bureau's determination of the taxpayer's Idaho income tax.

The Bureau added interest and penalty to the taxpayer's Idaho tax. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated June 25, 2007, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2000	\$ 649	\$ 162	\$ 292	\$ 1,103
2001	414	104	154	672
2002	1,180	295	364	1,839
2003	1,354	339	346	2,039
2004	1,423	356	279	2,058
2005	1,369	342	186	1,897
			TOTAL DUE	<u>\$ 9,608</u>

Interest is computed to May 1, 2008.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.
